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Economic and environmental questions: international cooperation in tax matters

Programme budget implications of the recommendations contained in the report of the Committee of Experts on International Cooperation in Tax Matters on its second session

Statement submitted by the Secretary-General in accordance with rule 31 of the rules of procedure of the Economic and Social Council

I. Introduction

1. The timing of the adoption of the report of the Committee of Experts on International Cooperation in Tax Matters on its second session,[1] which was finalized by the Committee on 3 November 2006, shortly before the end of the session, did not provide the Secretary-General with the requisite 48-hour minimum period to prepare and present a related statement of programme budget implications, in accordance with rule 28 of the rules of procedure of the functional commissions of the Economic and Social Council. Since that time, a thorough review of the implications of the recommendations made by the Committee in its draft resolution[2] has been carried out in order that a written statement containing a detailed analysis of the programme budget implications may be submitted to the Council at its substantive session of 2007. The results of that review are set out below.

II. Relevant requests contained in the draft resolution

2. Under the terms of operative paragraphs 11 and 12 of the draft resolution recommended by the Committee of Experts on International Cooperation in Tax Matters,[2] the Economic and Social Council would, inter alia:

(a) Request the necessary actions to provide in the United Nations regular programme budget for the biennium 2008-2009 the additional resources needed for

[1] *Office Records of the Economic and Social Council, 2006, Supplement No. 45* (E/2006/45).
[2] Ibid., annex.

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face-to-face meetings of the subcommittees and the working group, with special reference to ensuring the full and effective participation of members of those subcommittees from developing countries and countries with economies in transition and with priority given to subcommittees on permanent establishment and improper use of treaties;

(b) Request the necessary actions to provide in the United Nations regular programme budget for the biennium 2008-2009 the additional resources needed for capacity-building workshops in developing countries and countries with economies in transition.

3. Since operative paragraphs 11 and 12 of the draft resolution deal with administrative and budgetary matters, the attention of the Economic and Social Council is drawn to the provisions of section VI of General Assembly resolution 45/248 B and subsequent resolutions in which the Assembly reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions. Under the circumstances, the consideration and adoption by the Committee of Experts on International Cooperation in Tax Matters of the text of operative paragraphs 11 and 12 of the draft resolution may be considered to be in contravention of the resolutions of the Assembly reaffirming that the Fifth Committee is the appropriate main committee of the General Assembly entrusted with responsibilities for administrative and budgetary matters.

III. Relationship of the requests to the biennial programme plan and priorities for the period 2008-2009 and to the proposed programme budget for the biennium 2008-2009

4. The activities referred to above relate to subprogramme 10, Financing for development, of programme 7, Economic and social affairs, of the biennial programme plan and priorities for the period 2008-2009.[3] They also fall under subprogramme 10, International cooperation for development, of section 9, Economic and social affairs, of the proposed programme budget for the biennium 2008-2009.[4]

IV. Activities by which the proposed requests would be carried out

5. In its resolution 2006/48, the Economic and Social Council recognized that the Committee of Experts agreed to create, as necessary, ad hoc subcommittees composed of experts and observers who would work throughout the year according to the Committee's rules of procedure to prepare and determine the supporting documentation for the agenda items, including requests for papers by independent experts, for consideration at its regular session. As a result of decisions taken at the Committee's first and second sessions, there are currently four subcommittees on substantive matters, namely: improper use of treaties (formerly "treaty abuses");

[3] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 6* (A/61/6/Rev.1).
[4] A/62/6 (Sect. 9).

definition of permanent establishment; exchange of information; and dispute resolution. In addition, there are two working groups: on the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries; and on treatment of Islamic financial instruments.

6. While the subcommittees and working groups have used electronic communication as the main method of work, the intensified pace of drafting of highly technical documents necessitates that subcommittees and working groups undertake some face-to-face meetings, as requested in paragraph 11 of the draft resolution. Should the Council adopt the draft resolution, it is estimated that the subcommittees and working groups would each meet once a year for two working days. It is noted that approximately half of the members of the subcommittees and working groups are from developing countries and countries with economies in transition.

7. Also in its resolution 2006/48, the Council invited the Committee to continue to organize training workshops for developing countries and countries with economies in transition as part of the work required to carry out its mandate, which includes making recommendations on capacity-building and providing technical assistance. That request is reiterated in paragraph 12 of the draft resolution of the Committee. Should the Council adopt the draft resolution, it is estimated that at least five regional training workshops would be conducted during the biennium.

V. Modifications required in the proposed programme budget for the biennium 2008-2009

8. In order to take into account the provisions of the draft resolution, the programmed outputs of section 9, Economic and social affairs, of the proposed programme budget for the biennium 2008-2009[4] would be modified and would be incorporated into the programme of work of section 9, subject to the related approval by the General Assembly at its sixty-second session. The required modifications to the outputs would be as follows:

Paragraph 9.83

(iv) Committee of Experts on International Cooperation in Tax Matters:

a. Substantive servicing of meetings: the words "intersessional meetings of its subcommittees and working groups (20)" would be replaced with the words "intersessional meetings of its subcommittees (32) and working groups (16)";

b. Parliamentary documentation: the words "issues papers by the secretariat on agenda items to be determined by the Committee for its fourth and fifth sessions (20)" would be replaced with the words "background documents drafted by subcommittees, working groups and the task force on agenda items to be determined by the Committee for its fourth and fifth sessions (20)".

9. Should the Economic and Social Council adopt the draft resolution, additional resources estimated at $817,000 would be required under subprogramme 10,

Financing for development, of section 9, Economic and social affairs, of the proposed programme budget for the biennium 2008-2009, including:

(a) $332,000 for travel and per diem costs for the experts and observers of the four subcommittees and two working groups to an annual meeting for two working days in each year of the biennium. On average, each subcommittee is made up of five experts and three observers and each working group is made up of five experts and two observers for a total of 46 participants with an average cost of $3,600 per participant per year;

(b) $35,000 to cover travel and per diem costs of one staff member to provide substantive servicing to 10 of the 12 meetings of the subcommittees and working groups that would be held during the biennium away from Headquarters in New York;

(c) $450,000 to conduct at least five regional training workshops during the biennium 2008-2009 and to cover the cost of travel and per diem of workshop participants, expert trainers and staff members, including other workshop-related costs. These activities fall under the output description in paragraph 9.83 (c) (ii) of section 9 of the proposed programme budget for the biennium 2008-2009 and further modifications to the programme narrative are not required.

VI. Potential for absorption during the biennium 2008-2009

10. In the opinion of the Secretary-General, capacity-building activities are more appropriately supported from extrabudgetary resources. Thus, it is projected that the additional cost of $450,000 for the five regional training workshops would be funded from voluntary contributions to the trust fund established following the adoption of resolution 2006/48 by the Economic and Social Council. The conduct of the workshops will therefore be subject to the availability of voluntary contributions.

11. Provision of $330,200 (before recosting) has been made under section 9, Economic and social affairs, of the proposed programme budget for the biennium 2008-2009 exclusively for the travel and per diem costs of the 25 members of the Committee of Experts on International Cooperation in Tax Matters to attend its two annual regular sessions in Geneva, which consist of five working days each.

12. As regards the additional amount of $332,000 for the travel and per diem costs for the experts and observers of the four subcommittees and two working groups and the amount of $35,000 to cover the travel and per diem costs of one staff member to service meetings of subcommittees and working groups, the potential for absorption of the total additional requirements of $367,000 from within the resources of section 9, Economic and social affairs, of the proposed programme budget for the biennium 2008-2009 has been considered. It has been determined that those requirements could not be absorbed and that additional resources in the amount of $367,000 would be required over and above the resources available under section 9, Economic and social affairs, of the proposed programme budget for the biennium 2008-2009.

VII. Contingency fund

13. It will be recalled that, under the procedures established by the General Assembly in its resolutions 41/213 and 42/211, a contingency fund is established for each biennium to accommodate additional expenditures derived from legislative mandates not provided for in the programme budget. Under this procedure, if additional expenditures were proposed that exceed the resources available from the contingency fund, the activities concerned would be implemented only through the redeployment of resources from low-priority areas or the modification of existing activities. Otherwise, such additional activities would have to be deferred to a later biennium.

VIII. Conclusion

14. **Should the Economic and Social Council adopt the draft resolution recommended by the Committee of Experts on International Cooperation in Tax Matters in its report on its second session, additional resources in the amount of $367,000 would be required under section 9, Economic and social affairs, of the proposed programme budget for the biennium 2008-2009. This would represent a charge against the contingency fund and, as such, would require additional appropriation for the biennium 2008-2009, which is subject to the approval by the General Assembly at its sixty-second session in the context of the consolidated statement of programme budget implications and revised estimates of decisions taken by the Council.**